

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DUANE HALL,

Plaintiff,

v.

FLUOR HANFORD, INC.,

Defendant.

No. CV-08-5029-EFS

**ORDER DENYING PLAINTIFF'S
MOTION TO ALTER OR AMEND
JUDGMENT**

Before the Court is Plaintiff Duane Hall's Motion to Alter or Amend Judgment, ECF No. [266](#). The Court reviewed the parties' relevant submissions and carefully considered their respective positions. As is explained below, the Court is persuaded that no error was committed, abides by its prior oral rulings, and denies the motion.

Mr. Hall tried this Americans with Disabilities Act (ADA) and Washington Law Against Discrimination (WLAD) case as a "regarded as" case. Understandably upset by the Court's decision that he failed to prove a "regarded as" claim under either the ADA or WLAD, he asserts that he always met the definition of "actual disability" under the WLAD and that the Court overlooked the evidence adduced at trial and contained in the stipulated facts, ECF No. [147](#), which proves that he was actually disabled as a result of his psoriasis.

Pointing to the undisputed existence of psoriasis, Mr. Hall asserts

1 that under the WLAD, Defendant Fluor Hanford, Inc. ("Fluor") was aware
2 of his psoriasis and failed to engage in the interactive process between
3 July 22, 2007, and February 19, 2008, as the WLAD requires. However,
4 the evidence is that both Mr. Hall and his treating physician Dr. Mary
5 Newman asserted that he was able to return to work with no restrictions.
6 This is consistent with his repeated assertions that he was not
7 disabled. Indeed, he was not; Dr. Newman's letter faxed to Fluor said
8 as much, "[Mr. Hall] has no physical handicap . . . [Mr. Hall] is able
9 to go back to work." ECF No. [147](#) ¶¶ 111 & 152. Putting aside the fact
10 that Mr. Hall obtained that letter months earlier but had not sent it to
11 Fluor, the record establishes that Mr. Hall himself and his attorneys
12 did not assert that he was disabled but rather asserted that Fluor
13 regarded him as disabled. The record did not establish that Fluor
14 regarded him as disabled, and does not establish that Mr. Hall had an
15 actual disability between July 22, 2007, and February 19, 2009.

16 Alternatively, even if the Court were to find that Mr. Hall was
17 "actually disabled" and the WLAD interactive process was triggered, the
18 record establishes that after Fluor received the faxed copy of the
19 above-quoted return-to-work letter by Dr. Newman, Fluor did engage in an
20 interactive process. However, there were no vacant positions for Mr.
21 Hall. It is accurate that he discovered a posted position which another
22 employee had taken, and Fluor "bumped" him using seniority, but that
23 does not demonstrate a failure by Fluor to engage in the interactive
24 process had it been required to do so under WLAD. Of course, the Court
25 concludes on this record of no disability, that Fluor was not required
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1 to do so.

2 In summary, the Court concludes that it made no error in its
3 announced decision. Accordingly, **IT IS HEREBY ORDERED:** Plaintiff Duane
4 Hall's Motion to Alter or Amend Judgment, **ECF No. [266](#)**, is **DENIED**.

5 **IT IS SO ORDERED.** The District Court Executive is hereby directed
6 to enter this Order and furnish copies to counsel.

7 **DATED** this 26th day of March 2012.

8
9 s/ Edward F. Shea
EDWARD F. SHEA
10 United States District Judge

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